

Defendants.

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JUDGE DENISE L. COTE

3. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in ¶3 and, therefore, deny them.

4. Defendants admit that Delta Light (USA) LLC is a limited liability company organized and existing under the laws of Florida, with a place of business at 255 Fifth Avenue, 6th Floor, New York, New York 10016.

5. Defendants admit that Delta Light N.V. is a corporation organized and existing under the laws of Belgium with a place of business at Muizelstraat 2, 8560 Wevelgem, Belgium.

JURISDICTION AND VENUE

6. Defendants admit that this Court has subject matter jurisdiction over the patent infringement claims alleged in the Complaint.

7. Defendants admit that this Court has personal jurisdiction over them because Delta Light (USA) conducts business and derives revenue from products sold in this judicial district and Delta Light NV ships products to the United States that enter into this judicial district. Defendants deny the remaining allegations in ¶7.

8. Defendants admit that venue is proper in this judicial district and that Defendants may be sued in this judicial district, but deny the remaining allegations in ¶8.

FACTUAL BACKGROUND

9. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in ¶9 and, therefore, deny them.

10. Defendants admit that Plaintiffs have alleged infringement of the following patents in this lawsuit: U.S. Patent No. 6,577,512 (the “512 Patent”); 7,178,941 (the “941 Patent”); 7,262,559 (the “559 Patent”); 7,352,138 (the “138 Patent”); and 8,070,328 (the “328 Patent”) and that these patents are collectively referred to as the “Patents-in-Suit” in the Complaint. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in ¶10 and, therefore, deny them.

11. Defendants admit that what purports to be a copy of the ‘512 Patent, entitled “Power Supply for LEDs” can be found at <http://patft1.uspto.gov/netacgi/nph-Parser?patentnumber=6577512>, and that the ‘512 Patent, on its face, purports to have been issued on June 10, 2003. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in ¶11 and, therefore, deny them.

12. Defendants admit that what purports to be a copy of the ‘941 Patent, entitled “Lighting Methods and Systems” can be found at <http://patft1.uspto.gov/netacgi/nph-Parser?patentnumber=7178941>, and that the ‘941 Patent, on its face, purports to have been issued on February 20, 2007. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in ¶12 and, therefore, deny them.

13. Defendants admit that what purports to be a copy of the ‘559 Patent, entitled “LEDs Driver” can be found at <http://patft1.uspto.gov/netacgi/nph-Parser?patentnumber=7262559>, and that the ‘559 Patent, on its face, purports to have been issued on August 28, 2007. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in ¶13 and, therefore, deny them.

14. Defendants admit that what purports to be a copy of the ‘138 Patent, entitled “Methods and Apparatus for Providing Power to Lighting Devices” can be found at <http://patft1.uspto.gov/netacgi/nph-Parser?patentnumber=7352138>, and that the ‘138 Patent, on its face, purports to have been issued on April 1, 2008. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in ¶14 and, therefore, deny them.

15. Defendants admit that what purports to be a copy of the ‘328 Patent, entitled “LED Downlight” can be found at <http://patft1.uspto.gov/netacgi/nph->

Parser?patentnumber=8070328, and that the '328 Patent, on its face, purports to have been issued on December 26, 2011. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in ¶15 and, therefore, deny them.

COUNT I: PATENT INFRINGEMENT OF U.S. PATENT NO. 6,557,512

16. Defendants incorporate their admissions and denials set forth in paragraphs 1-15 above.

17. Defendants deny the allegations in ¶17.

18. Defendants admit that ¶18 purports to recite the claim limitations for claim 28 of the '512 Patent.

19. Defendants deny the allegations in ¶19.

20. Defendants admit that a brochure for B-Liner Products can be found at https://www.deltalight.com/frontend/files/downloads/profile_info/B-LINER.pdf and that the graphic appearing in ¶20 of the Complaint is in that brochure.

21. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in ¶21 and, therefore, deny them.

22. Defendants deny the allegations in ¶22.

23. Defendants deny the allegations in ¶23.

24. Defendants deny the allegations in ¶24.

25. Defendants deny the allegations in ¶25.

26. Defendants deny the allegations in ¶26.

27. Defendants deny the allegations in ¶27.

28. Defendants deny the allegations in ¶28.

29. Defendants deny the allegations in ¶29.

30. Defendants deny the allegations in ¶30.

31. Defendants admit that ¶31 purports to recite the claim limitations for claim 38 of the '512 Patent.

32. Defendants deny the allegations in ¶32.

33. Defendants deny the allegations in ¶33.

34. Defendants deny the allegations in ¶34.

35. Defendants deny the allegations in ¶35.

36. Defendants deny the allegations in ¶36.

37. Defendants deny the allegations in ¶37.

38. Defendants deny the allegations in ¶38.

39. Defendants deny the allegations in ¶39.

40. Defendants deny the allegations in ¶40.

41. Defendants deny the allegations in ¶41.

42. Defendants deny the allegations in ¶42.

43. Defendants deny the allegations in ¶43.

44. Defendants admit that they were aware of or had notice of the '512 Patent upon the service of the Complaint, but deny the remaining allegations in ¶44.

COUNT II: PATENT INFRINGEMENT OF U.S. PATENT NO. 7,178,941

45. Defendants incorporate their admissions and denials set forth in paragraphs 1-44 above.

46. Defendants deny the allegations in ¶46.

47. Defendants admit that that ¶47 purports to recite the claim limitations for claim 10 of the '941 Patent.

48. Defendants deny the allegations in ¶48.

49. Defendants admit that the B-Liner product is a light fixture, but deny the remaining allegations in ¶49.

50. Defendants deny the allegations in ¶50.

51. Defendants deny the allegations in ¶51.

52. Defendants deny the allegations in ¶52.

53. Defendants admits that B-Liner products include a power supply for providing power to the light sources, but deny the remaining allegations in ¶53.

54. Defendants deny the allegations in ¶54.

55. Defendants deny the allegations in ¶55.

56. Defendants deny the allegations in ¶56.

57. Defendants deny the allegations in ¶57.

58. Defendants admit that they were aware of or had notice of the '941 Patent upon the service of the Complaint, but deny the remaining allegations in ¶58.

COUNT III: PATENT INFRINGEMENT OF U.S. PATENT NO. 7,262,559

59. Defendants incorporate their admissions and denials set forth in paragraphs 1-58 above.

60. Defendants deny the allegations in ¶60.

61. Defendants admit that ¶61 purports to recite the claim limitations for claim 11 of the '559 Patent.

62. Defendants deny the allegations in ¶62.

63. Defendants deny the allegations in ¶63.

64. Defendants deny the allegations in ¶64.

65. Defendants deny the allegations in ¶65.

66. Defendants deny the allegations in ¶66.

67. Defendants deny the allegations in ¶67.

68. Defendants deny the allegations in ¶68.

69. Defendants deny the allegations in ¶69.

70. Defendants deny the allegations in ¶70.

71. Defendants admit that they were aware of or had notice of the ‘559 Patent upon the service of the Complaint, but deny the remaining allegations in ¶71.

COUNT IV: PATENT INFRINGEMENT OF U.S. PATENT NO. 7,352,138

72. Defendants incorporate their admissions and denials set forth in paragraphs 1-71 above.

73. Defendants deny the allegations in ¶73.

74. Defendants admit that ¶74 purports to recite the claim limitations for claim 1 of the ‘138 Patent.

75. Defendants deny the allegations in ¶75.

76. Defendants admit that the “Mains Dimming Products” are apparatuses that provide illumination.

77. Defendants admit that the “Mains Dimming Products” include at least one LED.

78. Defendants admit that the “Mains Dimming Products” include a controller connected to at least one LED. Defendants deny the remaining allegations in ¶78.

79. Defendants admit that a video is provided at <http://play.deltalight.com/?id=99902639> depicting, among other things, the operation of a falling edge dimmer, that the schematic depicted in ¶79 is excerpted from the video, and that the two

stills depicted in ¶79 are excerpted from the video. Defendants deny the remaining allegations in ¶79.

80. Defendants deny the allegations in ¶80.

81. Defendants deny the allegations in ¶81.

82. Defendants deny the allegations in ¶82.

83. Defendants deny the allegations in ¶83.

84. Defendants admit that they were aware of or had notice of the '138 Patent upon the service of the Complaint, but deny the remaining allegations in ¶84.

COUNT V: PATENT INFRINGEMENT OF U.S. PATENT NO. 8,070,328

85. Defendants incorporate their admissions and denials set forth in paragraphs 1-84 above.

86. Defendants deny the allegations in ¶86.

87. Defendants admit that ¶87 purports to recite the claim limitations for claim 1 of the '328 Patent.

88. Defendants deny the allegations in ¶88.

89. Defendants deny the allegations in ¶89.

90. Defendants deny the allegations in ¶90.

91. Defendants deny the allegations in ¶91.

92. Defendants deny the allegations in ¶92.

93. Defendants deny the allegations in ¶93.

94. Defendants deny the allegations in ¶94.

95. Defendants deny the allegations in ¶95.

96. Defendants deny the allegations in ¶96.

- 97. Defendants deny the allegations in ¶97.
- 98. Defendants deny the allegations in ¶98.
- 99. Defendants deny the allegations in ¶99.
- 100. Defendants deny the allegations in ¶100.
- 101. Defendants deny the allegations in ¶101.
- 102. Defendants deny the allegations in ¶102.
- 103. Defendants deny the allegations in ¶103.
- 104. Defendants deny the allegations in ¶104.
- 105. Defendants deny the allegations in ¶105.
- 106. Defendants deny the allegations in ¶106.
- 107. Defendants deny the allegations in ¶107.
- 108. Defendants deny the allegations in ¶108.
- 109. Defendants deny the allegations in ¶109.
- 110. Defendants deny the allegations in ¶110.
- 111. Defendants deny the allegations in ¶111.
- 112. Defendants admit that it was aware of or had notice of the '328 Patent upon the service of the Complaint, but deny the remaining allegations in ¶112.

PRAYER FOR RELIEF

Defendants deny that Plaintiffs are entitled to any relief from Defendants.

AFFIRMATIVE DEFENSES

Defendants assert the following Affirmative Defenses, without admitting any allegation not otherwise admitted and without assuming the burden of proof when such burden would

otherwise be on Plaintiffs. Defendants also reserve the right to allege additional Affirmative Defenses as they become known throughout the course of discovery.

FIRST AFFIRMATIVE DEFENSE – NON-INFRINGEMENT OF PATENTS-IN-SUIT

113. Defendants have not infringed, directly or indirectly, either literally or under the doctrine of equivalents, any valid and enforceable claim of the ‘512 Patent, the ‘941 Patent, the ‘559 Patent, the ‘138 Patent, or the ‘328 Patent.

SECOND AFFIRMATIVE DEFENSE – INVALIDITY OF PATENTS-IN-SUIT

114. One or more claims of the ‘512 Patent, the ‘941 Patent, the ‘559 Patent, the ‘138 Patent, or the ‘328 Patent are invalid for failure to comply with one or more of the conditions and requirements for patentability specified in Title 35 U.S.C. including, but not limited to: 35 U.S.C. §§ 102, 103, and/or 112, the judicial doctrine of double patenting, and the rules, regulations and laws pertaining thereto.

THIRD AFFIRMATIVE DEFENSE – NO KNOWLEDGE

115. Plaintiffs have failed to state an essential element for an indirect infringement claim, as Defendants did not have actual knowledge of the ‘512 Patent, the ‘941 Patent, the ‘559 Patent, the ‘138 Patent, or the ‘328 Patent prior to Plaintiffs’ allegation that Defendants infringed those patents.

FOURTH AFFIRMATIVE DEFENSE – LACK OF DIRECT INFRINGER

116. Plaintiffs have failed to state an essential element for an indirect infringement claim, as it has failed to allege with specificity a direct infringer for its indirect infringement of the ‘512 Patent, the ‘941 Patent, the ‘559 Patent, the ‘138 Patent, or the ‘328 Patent.

FIFTH AFFIRMATIVE DEFENSE – LACK OF INTENT

117. Plaintiffs have failed to state an essential element for an indirect infringement claim, as it has failed to allege that Defendants had a specific intent to induce direct infringement of the ‘512 Patent, the ‘941 Patent, the ‘559 Patent, the ‘138 Patent, or the ‘328 Patent prior to Plaintiffs allegation that Defendants infringed those patents.

SIXTH AFFIRMATIVE DEFENSE – NON-INFRINGEMENT USES

118. Defendants’ accused products have substantial non-infringing uses with respect to the ‘512 Patent, the ‘941 Patent, the ‘559 Patent, the ‘138 Patent, or the ‘328 Patent. Defendants’ accused products are not specially made or adapted to infringe the ‘512 Patent, the ‘941 Patent, the ‘559 Patent, the ‘138 Patent, or the ‘328 Patent.

SEVENTH AFFIRMATIVE DEFENSE – PROSECUTION HISTORY ESTOPPEL AND DISCLAIMER

119. Plaintiffs’ claims are barred in whole or in part by the doctrine of prosecution history estoppel and disclaimer because the amendments and arguments made during the prosecution limit the scope of the claims of the ‘512 Patent, the ‘941 Patent, the ‘559 Patent, the ‘138 Patent, or the ‘328 Patent and bar Plaintiffs’ allegations of infringement, whether literally or under the doctrine of equivalents.

EIGHTH AFFIRMATIVE DEFENSE – STATUTORY LIMITATIONS ON DAMAGES

120. Plaintiffs’ claims for damages and costs, if any, are statutorily limited by the provisions of 35 U.S.C. §§ 286, 287, and/or 288.

NINTH AFFIRMATIVE DEFENSE – EQUITABLE RELIEF IMPROPER

121. Plaintiffs have failed to state facts and/or a legal basis sufficient to permit the Court to grant them equitable relief against Defendants.

TENTH AFFIRMATIVE DEFENSE – NO IRREPARABLE HARM

122. Plaintiffs are not entitled to injunctive relief against Defendants because any alleged injury they suffered as a result of Defendants' alleged activities is not immediate or irreparable, and they have an adequate remedy at law.

ELEVENTH AFFIRMATIVE DEFENSE – LACHES

123. Plaintiffs' claims are barred, in whole or in part, under the doctrines of laches because their unreasonable delay in asserting the patents-in-suit materially prejudiced Defendants.

TWELFTH AFFIRMATIVE DEFENSE – EQUITABLE ESTOPPEL

124. The relief Plaintiffs seek is barred, in whole or in part, under the doctrine of equitable estoppel because their unreasonable delay in filing suit misled Defendants to believe that Plaintiffs did not intend to enforce the '512 Patent, the '941 Patent, the '559 Patent, the '138 Patent, or the '328 Patent against Defendants. Defendants relied on that misleading conduct, and would be materially prejudiced if Plaintiffs were permitted to proceed with its alleged claims of infringement against them.

THIRTEENTH AFFIRMATIVE DEFENSE -- ATTORNEYS' FEES IMPROPER

125. Plaintiffs have failed to state facts and/or a legal basis sufficient to permit recovery of attorneys' fees, costs, or expenses from Defendants.

FOURTEENTH AFFIRMATIVE DEFENSE – FAILURE TO STATE A CLAIM

126. Plaintiffs have failed to state a claim against Defendants on which relief can be granted.

WHEREFORE, Defendants respectfully pray that:

- (a). Plaintiffs' Complaint be dismissed with prejudice;
- (b). This Court deny in its entirety the relief sought by Plaintiffs;
- (c). This Court declare this case to be exceptional and award Defendants their reasonable attorneys' fees, expenses and costs in this action; and
- (d). This Court grant Defendants such other and further relief that this Court deems just and proper.

Dated: June 24, 2019

By: /s/ Arthur P. Licygiewicz

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*Attorneys for Defendants
Delta Light (USA) LLC and Delta Light N.V.*

CERTIFICATE OF SERVICE

I certify that on June 24, 2019, a copy of the foregoing was filed electronically. Notice of its filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. The parties may access this filing through the Court's filing system.

/s/ Arthur P. Licygiewicz

Arthur P. Licygiewicz

*One of the Attorneys for Defendants
Delta Light (USA) LLC and Delta Light N.V.*